

109TH CONGRESS
1ST SESSION

S. 1995

To amend the Federal Water Pollution Control Act to enhance the security
of wastewater treatment works.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 10, 2005

Mr. JEFFORDS (for himself, Mr. LAUTENBERG, Mrs. BOXER, and Mr. OBAMA)
introduced the following bill; which was read twice and referred to the
Committee on Environment and Public Works

A BILL

To amend the Federal Water Pollution Control Act to
enhance the security of wastewater treatment works.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Wastewater Treatment
5 Works Security Act of 2005”.

6 **SEC. 2. WASTEWATER TREATMENT WORKS SECURITY.**

7 Title II of the Federal Water Pollution Control Act
8 (33 U.S.C. 1281 et seq.) is amended by adding at the end
9 the following:

1 **“SEC. 222. WASTEWATER TREATMENT WORKS SECURITY.**

2 “(a) DEFINITIONS.—In this section:

3 “(1) ALTERNATIVE APPROACH.—

4 “(A) IN GENERAL.—The term ‘alternative
5 approach’ means a method of preventing or re-
6 ducing—

7 “(i) the threat of a harmful inten-
8 tional act; or

9 “(ii) the consequences of a harmful
10 intentional act.

11 “(B) INCLUSIONS.—The term ‘alternative
12 approach’ includes—

13 “(i) an approach at a treatment works
14 that—

15 “(I) uses smaller quantities, or
16 less hazardous forms, of substances of
17 concern;

18 “(II) replaces a substance of con-
19 cern with a less hazardous substance;
20 or

21 “(III) uses a process that is less
22 hazardous; and

23 “(ii) with respect to a treatment
24 works that uses chlorine for disinfection,
25 an approach that considers the use of so-
26 dium hypochlorite, ozone, ultraviolet radi-

1 ation, and other appropriate treatment
2 chemicals that are less hazardous than
3 chlorine.

4 “(2) CONSIDERATION.—The term ‘consider-
5 ation’, with respect to the consideration of an alter-
6 native approach, includes consideration of—

7 “(A) the benefits and risks of the alter-
8 native approach;

9 “(B) the potential for the alternative ap-
10 proach to prevent or reduce the threat or the
11 consequences of a harmful intentional act, in-
12 cluding hazards to human health and the envi-
13 ronment (as described in section 112(r)(7)(B)
14 of the Clean Air Act (42 U.S.C.
15 7412(r)(7)(B));

16 “(C) the cost and technical feasibility of
17 the alternative approach; and

18 “(D) the effect of the alternative approach
19 on employee safety.

20 “(3) EMERGENCY RESPONSE PLAN.—The term
21 ‘emergency response plan’ means a plan developed
22 by a treatment works that describes the procedures
23 to be followed by the treatment works in the event
24 of a harmful intentional act, including a description
25 of, at a minimum, particular equipment, plans, and

1 procedures that could be implemented or used by or
2 at the treatment works in the event of a harmful in-
3 tentional act.

4 “(4) HARMFUL INTENTIONAL ACT.—The term
5 ‘harmful intentional act’ means a terrorist attack or
6 other intentional act carried out upon a treatment
7 works that is intended—

8 “(A) to substantially disrupt the ability of
9 the treatment works to provide safe and reli-
10 able—

11 “(i) conveyance and treatment of
12 wastewater;

13 “(ii) disposal of effluent; or

14 “(iii) storage of a potentially haz-
15 ardous chemical used to treat wastewater;

16 “(B) to damage critical infrastructure;

17 “(C) to have an adverse effect on the envi-
18 ronment; or

19 “(D) to otherwise pose a significant threat
20 to public health or safety.

21 “(5) OWNER OR OPERATOR.—The term ‘owner
22 or operator’ means any individual or entity that
23 owns, leases, operates, controls, or supervises a
24 treatment works.

1 “(6) SITE SECURITY PLAN.—The term ‘site se-
2 curity plan’ means a plan to ensure or enhance, to
3 the maximum extent practicable, the security of a
4 treatment works that includes—

5 “(A) security enhancements to significantly
6 reduce the vulnerability of the treatment works
7 covered by the plan to a harmful intentional
8 act;

9 “(B) consideration of alternative ap-
10 proaches and, where practicable in the judg-
11 ment of the owner or operator of the treatment
12 works, implementation of options to reduce the
13 threat or consequences of a harmful intentional
14 act through the use of alternative approaches;

15 “(C) a certification by the owner or oper-
16 ator of the treatment works that alternative ap-
17 proaches were considered;

18 “(D) a description of the alternative ap-
19 proaches selected, if any; and

20 “(E) an explanation of the reasons why
21 particular alternative approaches were not se-
22 lected.

23 “(7) SUBSTANCE OF CONCERN.—The term
24 ‘substance of concern’ means—

1 “(A) any regulated substance (as defined
2 in section 112(r) of the Clean Air Act (42
3 U.S.C. 7412(r)); and

4 “(B) any substance designated by the Ad-
5 ministrator under subsection (j).

6 “(8) VULNERABILITY ASSESSMENT.—

7 “(A) IN GENERAL.—The term ‘vulner-
8 ability assessment’ means an assessment of the
9 vulnerability of a treatment works to a harmful
10 intentional act.

11 “(B) INCLUSIONS.—The term ‘vulner-
12 ability assessment’ includes—

13 “(i) a review of the vulnerabilities of
14 the treatment works that identifies, with
15 respect to the treatment works—

16 “(I) facilities, systems, and de-
17 vices used in the storage, treatment,
18 recycling, or reclamation of municipal
19 sewage or industrial waste;

20 “(II) intercepting sewers, outfall
21 sewers, sewage collection systems, and
22 other constructed conveyances;

23 “(III) electronic, computer, and
24 other automated systems;

1 “(IV) pumping, power, and other
2 equipment;

3 “(V) use, storage, and handling
4 of various chemicals; and

5 “(VI) operation and maintenance
6 procedures; and

7 “(ii) the identification of procedures,
8 countermeasures, and equipment that a
9 treatment works may implement or use to
10 reduce the vulnerabilities of the treatment
11 works identified in a review described in
12 clause (i).

13 “(b) GRANTS FOR VULNERABILITY ASSESSMENTS,
14 SITE SECURITY PLANS, EMERGENCY RESPONSE PLANS,
15 SECURITY ENHANCEMENTS, ALTERNATIVE APPROACHES,
16 AND TECHNICAL ASSISTANCE.—

17 “(1) IN GENERAL.—The Administrator may
18 provide grants to a treatment works, State, munici-
19 pality, or intermunicipal or interstate agency—

20 “(A) to conduct a vulnerability assessment
21 of a treatment works;

22 “(B) to prepare and implement a site secu-
23 rity plan;

24 “(C) to prepare an emergency response
25 plan;

1 “(D) to implement security enhancements
2 described in subsection (c) and other security
3 enhancements to reduce vulnerabilities identi-
4 fied in a vulnerability assessment for treatment
5 works that have—

6 “(i) completed a vulnerability assess-
7 ment;

8 “(ii) complied with subsection (e); and

9 “(iii) received a certificate of approval
10 from the Administrator under subsection
11 (e)(2)(B);

12 “(E) to implement security enhancements
13 described in subsection (c) and other security
14 enhancements to reduce vulnerabilities identi-
15 fied in a vulnerability assessment for treatment
16 works that do not meet the criteria described in
17 subparagraph (D);

18 “(F) to implement alternative approaches
19 at a treatment works, such as the use of an al-
20 ternative treatment chemical, that would reduce
21 the threat or consequences of a harmful inten-
22 tional act; and

23 “(G) to obtain technical assistance in car-
24 rying out any of subparagraphs (A) through
25 (F).

1 “(2) GRANT AMOUNTS.—

2 “(A) FEDERAL SHARE.—The Federal
3 share of the cost of an activity funded by a
4 grant under paragraph (1) shall not exceed 55
5 percent, as determined by the Administrator.

6 “(B) MAXIMUM AMOUNT.—The total
7 amount of grants made under subparagraphs
8 (A), (B), (C), (E), (F), and (G) of paragraph
9 (1) for any treatment works shall not exceed
10 \$150,000, as determined by the Administrator,
11 except in a case in which the Administrator de-
12 termines that additional funds are appropriate,
13 given the threat level and potential impact on
14 human health, welfare, environment, critical in-
15 frastructure, and national security.

16 “(3) PRIORITY.—The Administrator shall
17 give—

18 “(A) priority for the provision of grants
19 under this subsection to treatment works de-
20 scribed in paragraph (1) that apply for grants
21 under subsection (c); and

22 “(B) first priority for grants under sub-
23 section (c) to treatment works that have com-
24 pleted vulnerability assessments.

25 “(c) GRANTS FOR SECURITY ENHANCEMENTS.—

1 “(1) SECURITY ENHANCEMENTS.—The Admin-
2 istrator may provide grants to the applicant under
3 subparagraphs (D) and (E) of subsection (b)(1) for
4 1 or more of the uses described in paragraph (2).

5 “(2) USES OF GRANT FUNDS.—The uses re-
6 ferred to in paragraph (1) are—

7 “(A) the purchase and installation of
8 equipment for materials and activities relating
9 to access control, intrusion prevention and
10 delay, and detection of intruders and hazardous
11 or dangerous substances, including—

12 “(i) barriers, fencing, and gates;

13 “(ii) security lighting and cameras;

14 “(iii) metal grates, wire mesh, and
15 outfall entry barriers;

16 “(iv) securing of manhole covers and
17 fill and vent pipes;

18 “(v) installation and rekeying of doors
19 and locks; and

20 “(vi) smoke, chemical, and explosive
21 mixture detection systems;

22 “(B) the conduct of activities to improve
23 the security of electronic, computer, or other
24 automated systems and remote security sys-
25 tems, including—

1 “(i) controlling access to those sys-
2 tems;

3 “(ii) intrusion detection and preven-
4 tion; and

5 “(iii) system backup; and

6 “(C) participation in training programs,
7 and the purchase of training manuals and guid-
8 ance material, relating to security.

9 “(3) ADDITIONAL SECURITY ENHANCE-
10 MENTS.—

11 “(A) GRANTS.—The Administrator may
12 provide a grant under subsection (b) to an ap-
13 plicant for additional security enhancements not
14 specified in paragraph (2).

15 “(B) ELIGIBILITY.—To be eligible for a
16 grant under this subsection, an applicant
17 shall—

18 “(i) submit to the Administrator an
19 application containing a description of the
20 security enhancement;

21 “(ii) as appropriate, submit the cer-
22 tificate of approval of the Administrator
23 for the appropriate treatment works under
24 subsection (e)(2)(B); and

1 “(iii) obtain approval of the applica-
 2 tion by the Administrator.

3 “(4) LIMITATIONS.—A grant provided under
 4 subsection (b) shall not be used for—

5 “(A) payment of personnel costs; or

6 “(B) operation or maintenance of facilities,
 7 equipment, or systems.

8 “(5) AUTHORIZATION OF APPROPRIATIONS.—

9 “(A) IN GENERAL.—There are authorized
 10 to be appropriated to provide grants under sub-
 11 section (b) \$225,000,000, of which—

12 “(i) \$25,000,000 shall be used for
 13 grants under subparagraphs (A), (B), and
 14 (C) of subsection (b)(1);

15 “(ii) \$150,000,000 shall be used for
 16 grants under subparagraphs (D) and (F)
 17 of subsection (b)(1);

18 “(iii) \$25,000,000 shall be used for
 19 grants under subsection (b)(1)(E); and

20 “(iv) \$25,000,000 shall be used for
 21 grants under subsection (b)(1)(G).

22 “(B) AVAILABILITY.—Amounts made
 23 available under this paragraph shall remain
 24 available until expended.

25 “(d) REQUIREMENT.—

1 “(1) IN GENERAL.—Not later than 1 year after
2 the date of enactment of this section, the Adminis-
3 trator shall promulgate regulations that require the
4 owner or operator of each treatment works—

5 “(A) to conduct a vulnerability assessment
6 for the treatment works;

7 “(B) to prepare and implement a site secu-
8 rity plan for the treatment works that address-
9 es the results of the vulnerability assessment;

10 “(C) to prepare an emergency response
11 plan for the treatment works that addresses the
12 results of the vulnerability assessment; and

13 “(D) to review and update the vulnerability
14 assessment, site security plan, and emergency
15 response plan.

16 “(2) REGULATIONS.—Not later than 1 year
17 after the date of enactment of this section, the Ad-
18 ministrators shall promulgate regulations establishing
19 procedures, protocols, and standards for vulner-
20 ability assessments, site security plans, and emer-
21 gency response plans.

22 “(3) GUIDANCE TO SMALL ENTITIES.—Not
23 later than 1 year after the date of enactment of this
24 section, the Administrator shall issue guidance to as-

1 sist small entities in complying with paragraph (1)
2 and regulations promulgated under that paragraph.

3 “(4) THREAT INFORMATION.—To the maximum
4 extent practicable under applicable authority and in
5 the interests of national security, the Administrator
6 shall provide to each owner or operator of a treat-
7 ment works required to prepare a vulnerability as-
8 sessment, site security plan, and emergency response
9 plan threat information that is relevant to the treat-
10 ment works, including notification of any elevated
11 threat with respect to the treatment works.

12 “(5) COORDINATED ASSESSMENTS AND
13 PLANS.—The regulations promulgated under para-
14 graph (1) shall permit the development and imple-
15 mentation of coordinated vulnerability assessments,
16 site security plans, and emergency response plans in
17 any case in which more than 1 treatment works is
18 operating at a single location or at contiguous loca-
19 tions, including a case in which—

20 “(A) a treatment works is under the con-
21 trol of more than 1 owner or operator; or

22 “(B) a treatment works is operating with
23 a community water system covered by sections
24 1433 through 1435 of the Safe Drinking Water
25 Act (42 U.S.C. 300iq-2 through 300i-4), at a

1 single location or at contiguous locations, in-
 2 cluding a case in which a treatment works is
 3 under the control of more than 1 owner or op-
 4 erator.

5 “(e) CERTIFICATION AND SUBMISSION.—

6 “(1) IN GENERAL.—Each owner or operator of
 7 a treatment works shall certify in writing to the Ad-
 8 ministrator that the owner or operator has, in ac-
 9 cordance with this section (including regulations pro-
 10 mulgated under this section)—

11 “(A) completed a vulnerability assessment;

12 “(B) prepared and implemented or is im-
 13 plementing a site security plan; and

14 “(C) prepared and implemented an emer-
 15 gency response plan.

16 “(2) SUBMISSION.—

17 “(A) IN GENERAL.—Not later than 18
 18 months after the date of promulgation of regu-
 19 lations under subsection (d)(1), an owner or op-
 20 erator of a treatment works shall provide to the
 21 Administrator for review copies of the vulner-
 22 ability assessment, site security plan, and emer-
 23 gency response plan of the treatment works.

24 “(B) PUBLIC CERTIFICATE OF AP-
 25 PROVAL.—

1 “(i) IN GENERAL.—Not later than 2
2 years after the date on which the Adminis-
3 trator receives the vulnerability assess-
4 ment, site security plan, and emergency re-
5 sponse plan of a treatment works under
6 subparagraph (A), the Administrator shall
7 determine whether the treatment works is
8 in compliance with the requirements of this
9 section (including paragraph (1) and regu-
10 lations promulgated under this section).

11 “(ii) CERTIFICATE.—If the Adminis-
12 trator determines that the treatment works
13 is in compliance with the requirements of
14 this section (including paragraph (1) and
15 regulations promulgated under this sec-
16 tion), the Administrator shall provide to
17 the treatment works and make available
18 for public inspection a certificate of ap-
19 proval that contains the following state-
20 ment (in which statement the first brack-
21 eted space shall include the name of the
22 treatment works and the second bracketed
23 space shall include the Public Law number
24 assigned to this Act):

1 ‘[_____]’ is in compliance with
2 Public Law [_____]’.

3 “(iii) DETERMINATION OF NON-
4 COMPLIANCE.—If the Administrator deter-
5 mines under clause (i) that a treatment
6 works is not in compliance with the re-
7 quirements of this section (including para-
8 graph (1) and regulations promulgated
9 under this section), the Administrator may
10 issue an order requiring the certification
11 and submission of a vulnerability assess-
12 ment, site security plan, or emergency re-
13 sponse plan in accordance with this sec-
14 tion.

15 “(iv) ENFORCEMENT.—If the Admin-
16 istrator determines under clause (i) that,
17 after receiving an order from the Adminis-
18 trator requiring the certification and sub-
19 mission of a vulnerability assessment, site
20 security plan, or emergency response plan
21 in accordance with this section, a treat-
22 ment works is not in compliance with the
23 requirements of this section (including
24 paragraph (1) and the regulations promul-
25 gated under this section), the Adminis-

1 trator may issue an order or file a civil ac-
2 tion requiring the treatment works to com-
3 ply with those requirements.

4 “(3) OVERSIGHT.—The Administrator shall, at
5 such times and places as the Administrator deter-
6 mines to be appropriate, conduct or require the con-
7 duct or submission of vulnerability assessments, site
8 security plans, emergency response plans, and other
9 activities (including third-party audits) to ensure, to
10 the maximum extent practicable, and evaluate com-
11 pliance with this section (including paragraph (1)
12 and regulations promulgated under this section).

13 “(f) PROTECTION OF INFORMATION.—

14 “(1) DISCLOSURE EXEMPTION.—Except with
15 respect to any certification, description, or expla-
16 nation referred to in subparagraph (C), (D), or (E),
17 respectively, of subsection (a)(6) and certifications
18 specified in subsection (e)(2)(B)(ii), all vulnerability
19 assessments, site security plans, and emergency re-
20 sponse plans obtained in accordance with this sub-
21 title, all grant applications relating to vulnerability
22 assessments and security enhancements (including
23 grant applications submitted in accordance with reg-
24 ulations promulgated to carry out this section), and
25 all information derived from those vulnerability as-

1 sessments, site security plans, emergency response
2 plans, and applications (including information
3 shared with Federal, State, and local government
4 entities), shall be exempt from disclosure under—

5 “(A) section 552 of title 5, United States
6 Code; and

7 “(B) any State or local law providing for
8 public access to information.

9 “(2) DEVELOPMENT OF PROTOCOLS.—

10 “(A) IN GENERAL.—The Administrator, in
11 consultation with the Director of the Office of
12 Management and Budget and appropriate Fed-
13 eral law enforcement and intelligence officials,
14 and in a manner consistent with existing pro-
15 tections for sensitive or classified information,
16 shall by regulation establish confidentiality pro-
17 tocols for maintenance and use of information
18 that is obtained from owners or operators of
19 treatment works and provided to the Adminis-
20 trator under this title.

21 “(B) REQUIREMENTS FOR PROTOCOLS.—A
22 protocol established under subparagraph (A)
23 shall ensure, to the maximum extent prac-
24 ticable, that—

1 “(i) each copy of a vulnerability as-
2 sessment, site security plan, or emergency
3 response plan submitted to the Adminis-
4 trator, all information contained in or de-
5 rived from that assessment or plan, and
6 other related information is maintained in
7 a secure location; and

8 “(ii) except as provided in paragraph
9 (1)(B), or as necessary for judicial enforce-
10 ment, access to the copies of the vulner-
11 ability assessments, site security plans, and
12 emergency response plans submitted to the
13 Administrator, and other related informa-
14 tion shall be limited to persons designated
15 by the Administrator.

16 “(3) DISCLOSURE IN CIVIL PROCEEDINGS.—In
17 any Federal or State civil or administrative pro-
18 ceeding in which a person seeks to compel the disclo-
19 sure or the submission as evidence of sensitive infor-
20 mation contained in the vulnerability assessments,
21 site security plans, or emergency response plans re-
22 quired by subsection (a) or (b) and is not otherwise
23 subject to disclosure under other provisions or law—

24 “(A) the information sought may be sub-
25 mitted to the court under seal; and

1 “(B) the court, or any other person, shall
 2 not disclose the information to any person until
 3 the court, in consultation with the Adminis-
 4 trator, determines that the disclosure of the in-
 5 formation does not pose a threat to public secu-
 6 rity or endanger the life or safety of any per-
 7 son.

8 “(4) PENALTIES FOR UNAUTHORIZED DISCLO-
 9 SURE.—

10 “(A) IN GENERAL.—Except as provided in
 11 subparagraph (B), any person that is in posses-
 12 sion of or acquires any information described in
 13 paragraph (2)(A) (including any reproduction
 14 of that information or any information derived
 15 from that information), and that knowingly or
 16 recklessly discloses the information—

17 “(i) shall be fined under chapter 227
 18 of title 18, United States Code (applicable
 19 to class A misdemeanors);

20 “(ii) if the person is a Federal em-
 21 ployee, shall be removed from Federal of-
 22 fice or employment; and

23 “(iii) if the person is an organization
 24 (as defined in section 113(c)(5)(E) of the

Clean Air Act (42 U.S.C. 7413(c)(5)(E)),
shall be fined not more than \$1,000,000.

“(B) EXCEPTIONS.—

“(i) IN GENERAL.—Subparagraph (A)
shall not apply to a person described in
that subparagraph that discloses informa-
tion described in paragraph (2)(A)—

“(I) to an individual designated
by the Administrator under paragraph
(2)(B)(ii); or

“(II) for use in any administra-
tive or judicial proceeding to impose a
penalty for failure to comply with re-
quirements of this subtitle.

“(ii) LAW ENFORCEMENT OFFICIALS
AND FIRST RESPONDERS.—Notwith-
standing subparagraph (A), an individual
referred to in paragraph (2)(B)(ii) who is
an officer or employee of the United States
may share with a State or local law en-
forcement or other official (including a
first responder) the contents of a vulner-
ability assessment, emergency response
plan, or site security plan, or other infor-
mation described in that paragraph, to the

1 extent disclosure is necessary to carry out
 2 this subtitle.

3 “(5) NO EFFECT ON OTHER DISCLOSURE.—
 4 Nothing in this subtitle affects the handling, treat-
 5 ment, or disclosure of information obtained from
 6 treatment works under any other law.

7 “(g) EMERGENCY POWERS.—

8 “(1) DEFINITION OF EMERGENCY THREAT.—In
 9 this subsection, the term ‘emergency threat’ means
 10 a threat of a harmful intentional act that could af-
 11 fect a treatment works—

12 “(A) that is beyond the scope of the site
 13 security plan as implemented at the treatment
 14 works;

15 “(B) the likelihood of the immediate occur-
 16 rence of which is high;

17 “(C) the consequences of which would be
 18 severe; and

19 “(D) based on the factors described in sub-
 20 paragraphs (A) through (C), would not be ap-
 21 propriately and reasonably addressed, or ad-
 22 dressed in a timely manner, by the Adminis-
 23 trator under subsections (d) and (e).

24 “(2) INITIATION OF ACTION.—

“(A) IN GENERAL.—If the Administrator (in consultation with State and local law enforcement officials) determines that an emergency threat exists, the Administrator may bring a civil action in United States district court to immediately require each treatment works potentially affected by the new emergency threat to take such actions as are necessary to respond to the new emergency threat.

“(B) NOTICE AND PARTICIPATION.—The Administrator shall provide to each treatment works that is the subject of a civil action under subparagraph (A)—

“(i) notice of any injunctive relief to compel compliance with this subsection that is being sought; and

“(ii) an opportunity to participate in any proceedings relating to the civil action.

“(3) EMERGENCY ORDERS.—

“(A) IN GENERAL.—If the Administrator determines that it is not practicable to ensure prompt action to protect public safety from a new emergency threat by commencing a civil action under paragraph (2), the Administrator

1 may issue such orders as are necessary to en-
2 sure public safety.

3 “(B) CONSULTATION.—Before issuing an
4 order under subparagraph (A), the Adminis-
5 trator shall—

6 “(i) attempt to confirm the accuracy
7 of the information on which the action pro-
8 posed to be taken is based; and

9 “(ii) consult with State and local law
10 enforcement officials.

11 “(4) AUTHORIZATION OF APPROPRIATIONS.—
12 There is authorized to be appropriated to carry out
13 this subsection, \$15,000,000, to remain available
14 until expended.

15 “(h) TECHNICAL ASSISTANCE FOR SMALL TREAT-
16 MENT WORKS.—

17 “(1) DEFINITION OF SMALL TREATMENT
18 WORKS.—In this subsection, the term ‘small treat-
19 ment works’ means a treatment works that serves a
20 population of fewer than 10,000 individuals.

21 “(2) SECURITY ASSESSMENT AND PLANNING
22 ASSISTANCE.—

23 “(A) IN GENERAL.—The Administrator, in
24 coordination with the States, may provide tech-

1 nical guidance and assistance to small treat-
 2 ment works for—

3 “(i) the conduct of a vulnerability as-
 4 sessment;

5 “(ii) the preparation of an emergency
 6 response plan;

7 “(iii) the preparation and implementa-
 8 tion of a site security plan; and

9 “(iv) the implementation of security
 10 enhancements to reduce vulnerabilities
 11 identified in a vulnerability assessment.

12 “(B) INCLUSIONS.—Technical guidance
 13 and assistance provided under subparagraph
 14 (A) may include technical assistance programs,
 15 training, and preliminary engineering evalua-
 16 tions.

17 “(3) PARTICIPATION BY NONPROFIT ORGANIZA-
 18 TIONS.—The Administrator may provide grants to
 19 nonprofit organizations to assist in accomplishing
 20 the purposes of this subsection.

21 “(4) AUTHORIZATION OF APPROPRIATIONS.—
 22 There is authorized to be appropriated to carry out
 23 this subsection, \$1,000,000 for each of fiscal years
 24 2006 through 2010, to remain available until ex-
 25 pended.

1 “(i) REFINEMENT OF VULNERABILITY ASSESSMENT
 2 METHODOLOGY FOR PUBLICLY OWNED TREATMENT
 3 WORKS.—

4 “(1) GRANTS.—The Administrator may provide
 5 to nonprofit organizations 1 or more grants to be
 6 used in improving vulnerability assessment meth-
 7 odologies and tools for publicly owned treatment
 8 works, including publicly owned treatment works
 9 that are part of a combined public wastewater treat-
 10 ment and water supply system.

11 “(2) ELIGIBLE ACTIVITIES.—A grant provided
 12 under this subsection may be used—

13 “(A) to develop and distribute vulnerability
 14 self-assessment methodology software upgrades;

15 “(B) to improve and enhance critical tech-
 16 nical and user support functions;

17 “(C) to expand libraries of information ad-
 18 dressing threats and countermeasures; and

19 “(D) to implement user training initiatives.

20 “(3) COST.—A service described in paragraph
 21 (2) that is funded by a grant under this subsection
 22 shall be provided at no cost to the recipients of the
 23 service.

24 “(4) AUTHORIZATION OF APPROPRIATIONS.—

25 There is authorized to be appropriated to carry out

1 this subsection, \$1,000,000 for each of fiscal years
 2 2006 through 2010, to remain available until ex-
 3 pended.

4 “(j) DESIGNATION AND REGULATION OF ADDI-
 5 TIONAL SUBSTANCES OF CONCERN BY THE ADMINIS-
 6 TRATOR RELATING TO WASTEWATER TREATMENT
 7 WORKS.—

8 “(1) IN GENERAL.—Not later than 1 year after
 9 the date of enactment of this section, the Adminis-
 10 trator, in consultation with Federal, State, and local
 11 agencies responsible for planning for and responding
 12 to unauthorized releases and providing emergency
 13 health care, may promulgate regulations to designate
 14 certain additional substances of concern based on
 15 the severity of the threat posed by an unauthorized
 16 release from the treatment works.

17 “(2) FACTORS TO BE CONSIDERED.—In desig-
 18 nating additional substances of concern under para-
 19 graph (1), the Administrator shall consider, with re-
 20 spect to the substance under consideration—

21 “(A) the severity of the harm that could be
 22 caused by an unauthorized release;

23 “(B) proximity to population centers;

24 “(C) threats to national security;

25 “(D) threats to critical infrastructure;

1 “(E) threshold quantities that pose a seri-
2 ous threat; and

3 “(F) such other safety or security factors
4 as the Administrator determines to be appro-
5 priate.

6 “(3) REVIEW AND REVISIONS.—Not later than
7 5 years after the date of promulgation of regulations
8 under paragraph (1), the Administrator shall review
9 the regulations and make any necessary revisions.”.

10 **SEC. 3. RESEARCH AND REVIEW.**

11 Title II of the Federal Water Pollution Control Act
12 (33 U.S.C. 1281 et seq.) (as amended by section 2) is
13 amended by adding at the end the following:

14 **“SEC. 223. RESEARCH AND REVIEW.**

15 “(a) DEFINITION OF HARMFUL INTENTIONAL
16 ACT.—In this section, the term ‘harmful intentional act’
17 has the meaning given the term in section 222.

18 “(b) REVIEW BY ADMINISTRATOR.—Not later than
19 2 years after the date of enactment of this section, the
20 Administrator, in coordination with appropriate Federal
21 agencies, shall research and review (or enter into a con-
22 tract or cooperative agreement to provide for research and
23 review of)—

1 “(1) means by which terrorists or other individ-
2 uals or groups could carry out harmful intentional
3 acts; and

4 “(2) means by which alternative processes of
5 conveying, treating, and disposing of wastewater
6 could be provided in the event of the destruction, im-
7 pairment, or disruption of treatment works as the
8 result of harmful intentional acts.

9 “(c) MEANS OF CARRYING OUT HARMFUL INTEN-
10 TIONAL ACTS.—Means referred to in subsection (b)(1) in-
11 clude—

12 “(1) means by which pipes and other con-
13 structed conveyances used in treatment works could
14 be destroyed or otherwise prevented from providing
15 adequate conveyance, pretreatment, treatment, and
16 disposal of wastewater meeting applicable public
17 health standards;

18 “(2) means by which conveyance, pretreatment,
19 treatment, storage, and disposal facilities used by, or
20 in connection with, treatment works could be de-
21 stroyed or otherwise prevented from providing ade-
22 quate treatment of wastewater meeting applicable
23 public health standards;

24 “(3) means by which pipes, constructed convey-
25 ances, pretreatment, treatment, storage, and dis-

1 posol systems that are used in connection with treat-
2 ment works could be altered or affected so as to
3 pose a threat to public health, public safety, or the
4 environment;

5 “(4) means by which pipes, constructed convey-
6 ances, pretreatment, treatment, storage, and dis-
7 posal systems that are used in connection with treat-
8 ment works could be reasonably protected from
9 harmful intentional acts;

10 “(5) means by which pipes, constructed convey-
11 ances, pretreatment, treatment, storage, and dis-
12 posal systems could be reasonably secured from use
13 as a means of transportation by terrorists or other
14 individuals or groups who intend to threaten public
15 health or safety; and

16 “(6) means by which information systems, in-
17 cluding process controls and supervisory control,
18 data acquisition, and cyber systems, at treatment
19 works could be disrupted by terrorists or other indi-
20 viduals or groups.

21 “(d) CONSIDERATIONS.—In carrying out the review
22 under this section, the Administrator—

23 “(1) shall ensure, to the maximum extent prac-
24 ticable, that the review reflects the needs of treat-

1 ment works of various sizes and various geographic
2 areas of the United States; and

3 “(2) may consider the vulnerability of, or poten-
4 tial for forced interruption of service for, a region or
5 service area, including the National Capital Area.

6 “(e) INFORMATION SHARING.—As soon as prac-
7 ticable after the review carried out under this section has
8 been evaluated by the Administrator, the Administrator
9 shall disseminate to treatment works information on the
10 results of the review through the Information Sharing and
11 Analysis Center or other appropriate means.

12 “(f) FUNDING.—There is authorized to be appro-
13 priated to carry out this section \$15,000,000 for the pe-
14 riod of fiscal years 2006 through 2010.”.

15 **SEC. 4. CONFORMING AMENDMENT.**

16 Section 309(a)(1) of the Federal Water Pollution
17 Control Act is amended in the first sentence by striking
18 “section 402 or 404” and inserting the following: “section
19 222, 402, or 404”.

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